



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision - GRANTED

Request for Variance

David & Ann Harrington/Map 194, Lot 39

November 22, 2013

Applicant: K. A. Clason – Fine Woodworking Corp.

4 Diamond Island

Gilford, NH 03247

Location: 14 Falcon Way, Moultonborough, NH (Tax Map 194, Lot 39)

On November 6, 2013, the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of K. A. Clason (hereinafter referred to as the “Applicant” and/or “Owner”) for a variance from Article III (B.3), to allow the demolition of a grandfathered non-conforming cottage and the new construction of a small cottage with the same dimensions in the same location on the lot where one corner will have an approximate setback distance of 15 ft. and the other corner would have an approximate setback distance of more than 19 ft. on the parcel located in the Residential Agricultural (RA) Zoning District.

Based on the application, testimony given at the hearings, and additional documentation and plan(s), the Board hereby makes the following findings of fact:

- 1) The property is located at 14 Falcon Way (Tax Map 194, Lot 39).
- 2) The owners of record for the lot are David & Ann Harrington.
- 3) The owners were represented at the Public Hearing by Kurt Clason of K. A. Clason – Fine Woodworking Corp.
- 4) The lot is located in the Residential Agricultural (RA) Zoning District.
- 5) The applicant is proposing the removal and replacement of a small, nonconforming cottage in the same footprint as the one to be removed on the residential lot.
- 6) The setback affected is the twenty foot (20') side line.
- 7) One (1) abutter sent a letter of support for the Variance request.

- 8) The Public Hearing was continued to November 20, 2013 to allow for an onsite visit of the property, which was held on November 9, 2013.
- 9) The Public Hearing was re-opened at the November 20, 2013 ZBA meeting.
- 10) Granting the Variance would not be contrary to the public interest as the Board found that the literal enforcement of the ordinance would not result in any harm to either the direct abutters or to the general public interest because, even though with the complete removal which eliminates the grandfathered status, the situation would remain at status quo with a rebuild in the same location.
- 11) Granting the Variance would be consistent with the spirit of the Ordinance because the proposal would keep the size and location of the structure the same, therefore it does not cause a change in the amount of light or air the abutter gets or increases overcrowding of the land.
- 12) By granting the Variance, substantial justice would be done because given the testimony that the owner needed the driveway width for health reasons, the gain to the public interest would not outweigh the harm to the owner by requiring compliance with the side setbacks.
- 13) Granting the Variance would not diminish the value of surrounding properties as the rebuild will be in the same location and size, but the structure would be new.
- 14) The Board found that the application met the reasonableness test; that there is no fair and substantial relationship between the public purpose of the setback requirements and applying them here in this instance because the existing structure has been in that location and in that size and it is unreasonable to require it to be moved inward on this long, narrow, triangular shaped parcel.
- 15) On November 20, 2013, the Zoning Board of Adjustment voted by a vote of four (4) in favor (Stephens, Nolin, Crowe, Hopkins) and one (1) opposed (King) to **Grant** the request for a variance, ...and to close the Public Hearing. They moved to direct Staff to draft a formal Notice of Decision for review and approval for signing at the next meeting.

The Board of Adjustment, on December 4, 2013, approved this formal Notice of Decision language and authorized the Chairman to sign the Notice of Decision and send to the applicant and place same in the case file by a vote of four (4) in favor (Stephens, Nolin, Crowe, Hopkins), none (0) opposed, one (1) abstention (Bickford).

The decision made to Grant the variance on November 20, 2013 shall not take effect until thirty (30) days have elapsed and no request for rehearing has been filed in accordance with RSA 677:2, or that if such request has been filed, it has been dismissed or denied, in accordance with RSA 677:3.



Robert H. Stephens
Chairman, Zoning Board of Adjustment

Date 12/5/2013